Exhibit 17

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April 2, 2007

Via Hand Delivery

Hon. Susan D. Wigenton, U.S.D.J.
M.L. King, Jr. Federal Building & U.S. Cthse.
50 Walnut Street, Room 2037
Newark, New Jersey 07102

Re: *American Telephone and Telegraph Company v. Winback and Conserve Program, Inc. and Alphonse Inga*
Civil Action No. 93-5456

Dear Judge Wigenton:

On behalf of AT&T, I write in response to Mr. Arleo's March 29, 2007 letter concerning the April 2 telephone conference call. That call was scheduled as a result of my March 9, 2007 letter, which raised a discrete concern of AT&T's that I hoped could have been resolved without further involvement of the Court. Unfortunately, Mr. Arleo has never responded to my request for a consent order to memorialize his representation that his client, Mr. Alfonse Inga, would not contact Tom Umholtz, a sales representative at AT&T. Mr. Arleo's March 29 letter indicates that his client does not agree to such an order and now objects to a procedure that Mr. Arleo previously agreed to and that applies in virtually all cases—*i.e.*, that communications about legal proceedings should be done on a counsel-to-counsel basis, not between Mr. Arleo's client, who is not a lawyer, and an AT&T sales representative. This letter responds on that issue.

In addition, I explain why Your Honor should not, and indeed, cannot entertain Plaintiffs' last-minute request to expand the scope of the primary jurisdiction referral in a *different case*,

Combined Companies, Inc. and Winback & Conserve Program, Inc., One Stop Financial, Inc., Group Discounts, Inc. and 800 Discounts, Inc. and Public Service Enterprises Pennsylvania, Inc. v. AT&T, Civil Action No. 95-908, in which all proceedings are currently stayed. Mr. Arleo's request cannot be entertained in this case, and is in all events procedurally and substantively improper. Beyond these fatal defects, this request is based, at least in part, on a very troubling development since my March 9 letter—namely, Mr. Inga's submission to the Federal Communications Commission ("FCC") of a completely fabricated letter in which the Internal Revenue Service ("IRS") purports to request FCC rulings on issues that Mr. Inga has sought to raise before the Commission. Mr. Arleo cites the IRS's "referral" in his request to this Court, but the IRS has recently confirmed that the IRS did not prepare or authorize this letter. At a bare minimum, the Court should not entertain any request for a primary jurisdiction referral until AT&T is afforded an opportunity to conduct discovery concerning the origins of this letter and to determine whether, as appears to be the case, Mr. Inga himself fabricated it.[1]

1. The Issue For The April 2 Teleconference.

I am obliged to clear up some misstatements by Mr. Arleo on the genesis of the restrictions on Mr. Inga's contact with AT&T. On August 6, 1997, AT&T filed an Order to Show Cause because Mr. Inga was bombarding AT&T's counsel with a flood of calls, some

[1] Mr. Arleo letter raises another issue, related to a request by Mr. Inga for 12-year old legal pleadings from Mr. Umholtz, who has no access to such materials and even though Mr. Inga has been advised that he will not respond to such requests. Mr. Arleo now bothers this Court with this ministerial matter, even though (a) Mr. Inga's request was made last Tuesday; and (b) Mr. Arleo never bothered to ask for the material himself or communicate with me about the request by his client. There is no excuse for wasting the time of a busy Federal Judge with such trivia. My office will retrieve a copy of the papers and send them to Mr. Arleo.

laced with expletives, solely in connection with matters being litigated between Mr. Inga's companies and AT&T. (See August 8, 1997 letter and Order to Show Cause, Ex. A hereto). After AT&T filed that application, Mr. Inga tried to distract the Court from his misconduct by claiming that AT&T had been telling end-user customers to call Mr. Inga. However, at the hearing, Judge Politan clearly focused on Mr. Inga's misconduct, saying "counsel should not be disturbed with this litigation by floods of phone calls from either Mr. Inga or anybody else." (August 1997 Tr. 4:1-3, Ex. B hereto). He went on to state that: "I certainly can restrict him [*i.e.* Mr. Inga] from making phone calls to counsel and to people who he has no relationship with except through this litigation. I'm going to restrict that." (Tr. at 9:21-24). Judge Politan then entered the August 1997 Injunction, which restricted Mr. Inga's communications and provided that communications to AT&T's lawyers had to be through Mr. Inga's lawyers (which, of course, is the relief AT&T seeks now). Those facts undercut the suggestion by Mr. Arleo that the "single point of contact" restriction imposed on Mr. Inga was simply ancillary relief unrelated to Mr. Inga's misconduct. In addition, the record shows that the clear import of Judge Politan's order was to ensure that communications about Mr. Inga's legal issues be made by his counsel, and that AT&T would establish a single point of contact for written communications concerning Mr. Inga's (or his companies') purchase of AT&T service.[2]

[2] Contrary to Mr. Arleo's contention, AT&T was not in violation of Judge Politan's Order. After a hiatus of several years, AT&T proposed Mr. Umholtz as a new contact person because the former contact person was no longer in her position. When Mr. Inga continued to contact AT&T senior business executives in violation of Judge Politan's order, it moved for contempt sanctions. As part of AT&T's agreement to withdraw the sanctions motion, Mr. Inga agreed that to the re-designation of Mr. Umholtz in November 2003. (See Nov. 2003 Tr. 8-9, Ex. C).

There is also no basis for Mr. Arleo's charge that "nothing in [Mr. Inga's] emails ... evidence the characterization" of those emails in my March 9 letter. A description of just some of Mr. Inga's emails to Mr. Umholtz demonstrates conclusively that Mr. Inga's communications, while no longer wildly intemperate, remain inappropriate and improper. On September 17, 2006, Mr. Inga sent an email to Mr. Umholtz with an attachment asking numerous questions about AT&T's position on the legal issues that the Inga Companies intended to raise with the FCC. (Ex. D). He sent that letter even though Mr. Arleo had already been identified as representing him in the FCC proceeding. In November 2006 emails to Mr. Umholtz, Mr. Inga raised a tax liability issue and stated in one email that if AT&T did "not state its position on jurisdiction by Monday," he would send a letter to 49 states on this issue. (Ex. E, Nov. 20 email). In January 2007, well before AT&T's response to a petition by Mr. Inga to consolidate proceedings at the FCC, Mr. Inga told Mr. Umholtz that if he did not hear from him within 24 hours, he would assume that AT&T would not be filing any opposition. Mr. Inga sent this email to Ms. Donna Shelter at the FCC, even though Mr. Arleo was representing him and presumably knew that Mr. Inga's "deadline" was in advance of AT&T date for responding under the FCC rules. (Ex. F). Mr. Inga engaged in the same conduct a month later in conjunction with petitioners' request to reconsideration at the FCC, and then told Mr. Umholtz that "if AT&T will not be filing opposition, petitioners will inform the FCC that AT&T no longer opposes the FCC's adjudicating all of petitioners declaratory Ruling requests." (Ex. G).

I attach as Exhibit H emails relating to Mr. Inga's communications with Mr. Umholtz and a non-party that resulted in inquiries to Mr. Umholtz from that non-party about the legal claims

made by Mr. Inga. Recently, after Mr. Arleo promised that Mr. Inga would stop contacting Mr. Umholtz and after my March 9 letter, Mr. Inga emailed Mr. Umholtz asking (ostensibly on behalf of Mr. Arleo) for copies of certain briefs, soliciting AT&T's legal position if there was a "settlement," and discussing other aspects of the FCC proceeding. (See emails, Ex. I hereto).

The foregoing emails, which are characteristic of the types of emails being sent to Mr. Umholtz, demolish Mr. Arleo's claim that I mischaracterized the emails in my March 9 letter. Mr. Inga has repeatedly contacted an AT&T sales representative designated for business communications to impose arbitrary filing deadlines on AT&T, solicit AT&T's legal positions and request legal documents. Indeed, since January 1, 2007, Mr. Inga has sent 40 emails to Mr. Umholtz about the legal issues between the Inga Companies and AT&T.[3] That conduct has not been in accordance with the Court orders, which were clear that all such communications should be made on a counsel-to-counsel basis.

In his March 29 letter, Mr. Arleo ignores the fact that all of his communications with Mr. Umholtz have been about legal issues. Mr. Arleo's claim that Judge Bassler placed "no prohibition" on the type of information Mr. Inga could communicate is a red herring because Judge Bassler simply modified the contact person. He did not modify that portion of Judge Politan's order that made clear that communications about Mr. Inga (or his entities') legal issues should be on a counsel to counsel basis. Given that Mr. Inga and his companies no longer

[3] On March 29, 2007, in a transparent ploy to maintain an AT&T contact, Mr. Inga sent an email, feigning interest in AT&T's wholesale products. That was the first email for Mr. Inga to Mr. Umholtz about AT&T's service since Mr. Umholtz was designated in 2003.

purchase AT&T service, there is, accordingly, no reason to further burden Mr. Umholtz (or any other business person at AT&T) with communications from Mr. Inga.

2. The Court Should Not Consider Plaintiff's Short Notice Request For a Revised Primary Jurisdiction Referral.

The Court should not consider a request by Mr. Arleo for several reasons. First, the primary jurisdiction referral was not in this case, but in *Combined Companies, Inc. et al. v. AT&T*, Civil Action No. 95-908. That matter is stayed, and I understand that it has not yet been reassigned after Judge Bassler's retirement. Second, even if Mr. Arleo's request had been made in the proper case, that requested relief --- for a primary jurisdiction referral to the Federal Communications Commission ("FCC") --- should be ordered only following a formal motion, full briefing and oral argument, not as a result of a letter submitted less than two full business days before our upcoming conference. The formal motion practice was the procedure Judge Politan followed in making the initial primary jurisdiction referral to the FCC in 1995, and that Judge Bassler required before ordering Mr. Arleo's clients to return to the FCC to re-institute the still-unfinished proceedings that Judge Politan's order initiated. It is improper to request such relief in a letter just days before a telephonic conference concerning an entirely different matter, and the Court should not entertain such a request in the absence of a formal motion and briefing.

Third, Mr. Arleo's request is particularly inappropriate because it is duplicative of relief his clients are currently seeking from the FCC itself. As Mr. Arleo notes, his clients submitted a formal request that the FCC reconsider a January 12, 2007 order which stated that the various issues his clients wish to raise before the agency are not encompassed within the primary

jurisdiction referral. The parties have fully briefed that request for reconsideration and it is still pending before the Commission. To initiate a similar request before the FCC has ruled is a waste of both judicial and agency resources, and disrespectful of this Court's (as well as the agency's) processes.

Beyond these fatal defects, Mr. Arleo's request should be denied because it is based, at least in part, on Mr. Inga's recent submission to the FCC of a completely fabricated "IRS" letter. On March 16, 2007, Mr. Inga submitted to the FCC a March 14, 2007 letter, purportedly from the IRS, that asked the FCC to "resolve all declaratory ruling requests made by petitioners within case 06-210,"—*i.e.*, the proceeding that Mr. Arleo's clients began at the FCC in response to Judge Bassler's order—and stated that resolution of these issues "will determine multiple tax issues for the IRS rewards department." *See* Ex. J. The letter appears, on its face, to be fabricated. It is not on IRS or Treasury Department letterhead. It is not signed by an IRS employee. It bears a "Received" stamp date indicating that it was received by the IRS, not written by the agency. And the fax cover page states that it was faxed "On Behalf of Taxpayer."

The IRS has since confirmed that the document is fabricated. The IRS advised AT&T that this letter "was not prepared or authorized by the Internal Revenue Service," and was "faxed by an employee of the Internal Revenue Service to the fax number 973-787-1050 at the bequest of a taxpayer who walked into the Mountainside NJ Internal Revenue Service Taxpayer Service Office." *See* Ex. K. It is hard to imagine who, besides Mr. Inga, could or would have written this false letter, which he has since attempted to pass it off as an official statement by the IRS. In his March 16th letter to the FCC, Mr. Inga states that he was "a former Enrolled Agent (EA) of

the United States Treasury Department and thus a top tax law specialist." *See* Ex. L. He further asserts that "[t]he IRS has provided [his company] Tips *carte blanche to have the IRS issue additional Primary Jurisdiction Referrals.*" *Id.* (emphasis added).

The fabrication of official documents by Departments of the United States Government is a very serious form of misconduct. And even in the highly unlikely event that Mr. Inga had nothing to do with fabricating this document, and instead simply received a fax from an IRS office out of the clear blue, he could not plausibly have believed that it was an official pronouncement of the agency, given the obvious signs of falsity noted above (and his supposed expertise as a former Enrolled Agent of the IRS). Yet he has urged the FCC to act on the basis of this fabrication, and his lawyer has now urged this Court to do the same. In light of this troubling circumstances, Mr. Arleo's request for a primary jurisdiction referral should be denied and AT&T should be afforded an opportunity to conduct discovery, under oath, concerning the origins of this document.

Finally, while Mr. Arleo's request is procedurally and substantively improper, AT&T is compelled to address certain egregiously inaccurate statements in Mr. Arleo's letter. Regrettably, it appears that Mr. Arleo is employing a tactic that he tried, without success, before Judge Bassler—namely, misrepresenting to a new Judge aspects of this long and complicated case. Indeed, it is telling the Mr. Arleo has not attached a single one of the numerous judicial and administrative decisions that he purports to describe. Space and time do not permit a complete cataloguing of his various misstatements on this issue, but one cries out for a response.

A. AT&T Did Not Concede, And Judge Bassler Did Not Rule, That The FCC Should Decide The Issues Plaintiffs Seek To Raise. Mr. Arleo states that "Judge Bassler ordered plaintiff back to the FCC to resolve . . . the shortfall and discrimination issues *which AT&T argued to Judge Bassler were all open issues best interpreted by the FCC*." Letter at 6 (emphasis added). This is demonstrably untrue. To appreciate why, it is necessary to understand important aspects of the dispute that Mr. Arleo neglects to recount.

This dispute arose when his clients, who subscribed to certain AT&T volume discount plans, proposed a two-step transfer designed to evade the minimum revenue commitments that were the *quid pro quo* for the discounts: Plaintiffs sought to transfer their plans to Combined Companies, Inc. ("CCI"), which would then transfer virtually all of the traffic associated with those plans, but not the plans or the plans' associated obligations, to Public Service Enterprises of Pennsylvania, Inc. ("PSE"). AT&T refused to process this two-step transfer because PSE did not agree to assume all of the obligations of CCI, as required by § 2.1.8 of AT&T's tariff.

Judge Politan ordered AT&T to permit the transfer of the plans to CCI, but ordered that "the issue of the transfer of [the] plans and/or their traffic as between [CCI] and [PSE] and its compliance or not with the terms of the governing tariff be referred to the [Commission] for adjudication under the doctrine of primary jurisdiction." *See* Exh. M, May 19, 1995 Prelim. Inj. at 2. After further skirmishing before the district court and the Third Circuit, plaintiffs filed a petition for a declaratory ruling with the Commission in July 1996. Subsequently, on March 4, 1997, they filed a Supplemental Complaint in this Court raising three new claims: (1) that AT&T had discriminated by supposedly refusing to provide them with certain contract tariffs, (2)

that AT&T had discriminated by allegedly permitting other aggregators, but not plaintiffs, to transfer traffic without requiring the transferee to assume "all obligations," including the duty to pay shortfall and termination charges; and (3) that AT&T had improperly sought to collect from CCI's end-users shortfall charges that CCI incurred in 1996, when it failed to meet the minimum revenue commitments under the plan (the "illegal remedy" or "shortfall" claim). The Court did *not* refer the issues raised in the Supplemental Complaint to the FCC; instead, it stayed litigation of these claims pending final disposition of the matters before the FCC.

In October 2003, the FCC held that AT&T's refusal to process the transfers violated the tariff, ruling that "section 2.1.8 of AT&T's Tariff did not address—and therefore did not preclude or otherwise govern—the movement of end-user traffic from one aggregator to another, as CCI and PSE sought to effect." Ex. N at 6-7. Following this decision, plaintiffs inundated Judge Bassler with submissions seeking a referral to the FCC of the three issues raised in their Supplemental Complaint. *See* Ex. O, Proposed Order filed Oct. 8, 2004. But plaintiffs abruptly changed tactics after the D.C. Circuit overturned the FCC decision. The D.C. Circuit held that § 2.1.8 did govern the proposed CCI/PSE transfer of traffic and that "any transfer of WATS *required PSE to assume CCI's obligations*." *AT&T v. FCC*, 394 F.3d 933, 937-39 (D.C. Cir. 2005) (emphasis added). The D.C. Circuit noted that § 2.1.8 required a transferee to assume "*all obligations*" of the transferor, but it declined to "decide precisely which obligations should have been transferred in this case, as the question was neither addressed by the Commission nor adequately presented to us." *Id.* at 938 & n.2.

After the D.C. Circuit ruled, Judge Bassler ordered plaintiffs to file a motion setting forth the relief they sought. Ex. P, May 5, 2005 Letter Order. In response, plaintiffs abandoned their efforts to have their three new issues referred to the FCC and, indeed, sought to avoid returning to the agency to resolve the "all obligations" issue the D.C. Circuit had left open. Hoping to take advantage of Judge Bassler's unfamiliarity with the case, plaintiffs argued that the D.C. Circuit had resolved the only question referred to the FCC in *their favor*, that the FCC had resolved all other issues of tariff interpretation, and that the stay should be lifted so they could proceed with their claims concerning AT&T's refusal to process the 1995 traffic transfer. Ex. Q, Brief to Vacate Stay at 16. Critically, plaintiffs explicitly represented that the issues raised in their Supplemental Complaint were stayed and were "not directly at issue in this motion." *Id.* at 6. Indeed, in their subsequent filings to Judge Bassler, *never mentioned* AT&T's allegedly illegal imposition of shortfall charges on end-users or their discrimination claims.

Instead, plaintiffs offered a series of arguments to prove that the FCC had already decided that § 2.1.8's requirement that PSE agree to accept "all obligations" of CCI did not include CCI's obligation to pay shortfall charges for failing to meet minimum revenue commitments. AT&T described these arguments—all of which pertained solely to scope of § 2.1.8's "all obligations" requirement—as raising "interpretive issues" properly resolved by the FCC. AT&T manifestly did *not* represent to Judge Bassler that the discrimination and shortfall claims plaintiffs raised in their Supplemental Complaint were "open issues best interpreted by the FCC," as Mr. Arleo falsely asserts, *because these claims were not even at issue in plaintiffs' motion.*

After extensive briefing and argument, Judge Bassler recognized that, contrary to plaintiffs' misleading claims, the FCC had not already ruled that § 2.1.8's "all obligations" requirement excluded the obligation to pay shortfall charges. He denied plaintiffs motion to vacate the stay, and ordered them "to initiate an administrative proceeding to resolve the issue of precisely which obligations should have been transferred under § 2.1.8 of Tariff No. 2 as well as any other issues left open by the D.C. Circuit's Opinion." Having failed in their efforts to avoid a return to the FCC at all, plaintiffs changed tactics again. They decided to try to resurrect their "shortfall" and discrimination claims, and demanded that AT&T agree that these issues could be raised before the FCC. They threatened that, if AT&T refused to agree, they would advise the Court that AT&T had misrepresented its positions when opposing their motion to lift the stay. (Ex. D, final page of Inga letter to T. Umholtz). AT&T responded in a letter that pointed out that these issues were plainly outside the scope of the referral and had nothing to do with whether the proposed CCI-PSE transfer complied with the tariff; that plaintiffs had no conceivable basis for demanding that these issues be resolved at the FCC; and that any attempt to move to lift the stay on the basis of these claims would be frivolous and sanctionable. Ex. R. AT&T also flatly refuted plaintiffs' claim that had deemed these issues "interpretive" questions for the FCC: rather, it listed the various arguments plaintiffs advanced to try to prove that "all obligations" meant "only some obligations" and noted that *these arguments* raised interpretive issues. Tacitly conceding the untenable nature of their demand, plaintiffs did not return to the court.

Instead, they improperly filed a petition with the FCC that contained issues that they knew were outside the scope of the referral. In a January 12, 2007 order, the FCC explained that

Judge Bassler's order did "not expand the scope of the issue previously presented" in Judge Politan's 1995 referral, and was limited to "interpret[ing] the scope of section 2.1.8 of AT&T's Tariff." Exh. S. It admonished Mr. Arleo's clients to limit their comments to this issue. Plaintiffs responded by filing a request for reconsideration, and AT&T submitted an opposition on February 20, 2007. That request is still pending.

As this history makes abundantly clear, AT&T has never argued that the shortfall and discrimination claims plaintiffs asserted in their Supplemental Complaint are "open" or "interpretive" issues for the FCC to resolve. Instead, it has consistently maintained that § 2.1.8 prohibited the CCI/PSE transfer because PSE did not agree to accept "all obligations" of CCI, and that *this* issue must be resolved by the FCC, not this Court. Mr. Arleo's claims to the contrary are completely untrue.

In summary, because the scope of the Court's primary jurisdiction referral was clear, there is no need for Your Honor to consider the issue. In all events, the issue should not be resolved on the basis of letters exchanged by the parties and before the FCC has relied on plaintiffs' motion for reconsideration and before AT&T is given the opportunity to determine the origins of the fabricated IRS letter that Mr. Inga is using, both here and before the FCC, as a ground for expanding the scope of the existing referral. The Court should also grant the relief requested in my March 9, 2007 letter.

Respectfully submitted,

RHB

RICHARD H. BROWN

cc: Frank P. Arleo, Esq. (via email)

Exhibit 18

Guerra, Joseph R.

From: Mr. Inga [freerecdeptsrvc@optonline.net]
Sent: Thursday, May 17, 2007 12:01 PM
To: fcc@bcpiweb.com; Deena Shetler; Frank Arleo; lgsjr@usa.net; phillo@giantpackage.com; Guerra, Joseph R.; Brown, Richard; Joe Kearney
Subject: Case 06-210 5_17_07 Reply to AT&T Tr 8179 reply.doc

Attachments: 5_17_07_Reply_to_AT&T_Tr_8179.pdf; 5_17_07_Exhibits.pdf


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Deena

Attached are petitioners comments that address AT&T's February 1995 Reply Comments to the Petitions filed to Reject Tr. 8179.

Multiple concessions from AT&T's counsel Mr. Meade regarding S&T obligations staying with plan. This document was not presented to the FCC in 2003. Wish I had it. Additionally the DC Circuit nor the District Court had the luxury of AT&T's concessions contained herein regarding S&T obligations staying with the CSTPII/RVPP plan.

It is also interesting to note that AT&T herein states that it agreed with the petitions to reject which pointed to the pre June 17th 1994 immunity etc. --stating those aggregators would not be affected by Tr. 8179 even if it were to go into place retroactively.

Petitioners have also located 1995 and 1996 transcripts before the District Court. Petitioners had asked AT&T for these transcripts because petitioners did not realize it had them. AT&T stated a week ago it would look for the transcripts but now that we see what is in these transcripts we now know why AT&T was avoiding providing them to petitioners.

Here is one quote of many:

March 21, 1995 transcript before Politan
AT&T counsel Fred Whitmer

Page 106 Line 13

Whitmer: Mr. Inga, you know, do you not, that if the service, except for the home account---or Mr. Yeskoo called it the "lead account" -- is transferred to PSE, the shortfall and termination liabilities remain with Winback & Conserve, isn't that correct?

Yup that is correct Mr. Whitmer. The Inga companies remained jointly and severally liable on those plans as the FCC's 2003 decision accuratley stated.

Deena we will provide additional AT&T concession excerpts from these transcripts by next week. We know that there is a tremendous amount of evidence already but these additional clear cut AT&T concessions will make the FCC's case and Judge Wigenton's case much easier.

Al Inga Pres
800 Discounts, Inc.

Exhibit 19

From: Mr. Inga [mailto:freerecdeptsrvc@optonline.net]
Sent: Thursday, April 26, 2007 4:59 PM
To: Frank Arleo; Deena Shetler; Brown, Richard; lgsjr@usa.net; chh@commlawgroup.com; Guerra, Joseph R.
Subject: Deena Please answer this procedural question.

Dear Deena

Given the fact that AT&T has conceded:

1) that it is "self-evident" under the tariff that the transferors (revenue commitments/shortfall and termination obligations) do not transfer on traffic only transfers petitioners and
2) that Judge Bassler made a critical error in not recognizing that the FCC's 2003 Decision extensively elaborated on the allocation of obligations **under 2.1.8 not the fraudulent use section.**
3) that AT&T has never refuted Mr. Carpenters "petitioner favorable" statements to the Third Circuit were accurate
4) that AT&T's counsel Mr. Carpenter's statements to the DC Circuit that what obligations transfer depends upon what is transferred ---AT&T did attempt a feeble cover-up that there is a ficticious de minimus transfer section in the tariff!!!

Given the AT&T concessions and the overwhelming evidence petitioners exposed during the FCC briefing petitioners may wish to go back to the NJ District Court and lift the stay and seek summary judgment on the traffic transfer issue.

Procedurally can the FCC Declaratory Rulings be "suspended" until the District Court Judge decides whether or not she will lift the stay and address the new AT&T traffic only transfer concessions and the fact that the FCC has already clearly interpreted the obligations allocation using 2.1.8?

Additionally the record also shows that AT&T has also conceded that the plans were grandfathered through at the minimum June 1996 and AT&T can not refute that it was in clear violation of the FCC Oct 23rd 1995 Order which would have given petitioners S&T immunity well past the June 1996 shortfall infliction.

Additionally AT&T has conceded that it used a shortfall application illegal remedy. Thus petitioners will also ask the NJ District Court for summary judgment on the shortfall issues as well. Therefore petitioners would like to suspend FCC Declaratory Rulings on shortfall issues as well.

Petitioners will of course ask the FCC to further evaluate the record and issue Declaratory Rulings if the Court decides not to lift the stay. The FCC briefing process has been very beneficial and new evidence has produced significant additional AT&T concessions--- therefore the "new" District Court under Judge Wigenton is very likely to recognize AT&T's bogus cover-ups.

Please advise petitioners what the FCC procedure protocol is in a situation like this if petitioners can **temporarily suspend the declaratory ruling process**.

Al Inga
Petitioners

Exhibit 20

From: Guerra, Joseph R.
Sent: Tuesday, May 01, 2007 3:31 PM
To: 'Deena Shetler'; Mr. Inga; Frank Arleo; Brown, Richard; lgsjr@usa.net; chh@commlawgroup.com
Subject: RE: Deena Please answer this procedural question.

Dear Ms. Shetler:

I am writing on behalf of AT&T Corp. to object strenuously to Mr. Inga's recent suggestion that this referral proceeding can or should be "suspended." Mr. Inga's contention that a suspension is appropriate in light of AT&T's supposed "concessions" is baseless. AT&T is responding again today, and has responded numerous times in the past, to Mr. Inga's various "concession" claims—all of which rest on blatant distortions of AT&T's prior representations. As AT&T has repeatedly shown, it did not "concede" away the meaning of § 2.1.8 over a decade ago; in contending otherwise, Mr. Inga is simply inviting the Commission to make the same error that the D.C. Circuit identified in the Commission's last decision—*i.e.*, failing to interpret the tariff itself, and relying instead on alleged "concessions." *See AT&T Corp. v. FCC*, 394 F.3d 933, 937 (D.C. Cir. 2005) ("AT&T did not concede the inapplicability of Section 2.1.8 to transfers of traffic only. Indeed, had AT&T been willing to make such a concession, it presumably would not have contested the meaning of this provision before the Commission. Accordingly, the FCC's reliance on AT&T's comment is plainly misplaced.").

More fundamentally, suspension of this proceeding would be highly prejudicial and unfair to AT&T, inconsistent with the District Court's orders, and extraordinarily wasteful of agency and judicial resources. The Court has now asked the Commission *twice* to decide whether the proposed CCI-PSE transfer was consistent with the requirements of § 2.1.8. Before the Court entered its most recent order directing him to return to the Commission, Mr. Inga raised many of the same baseless claims he is raising now. After extensive litigation that included numerous supplemental briefs, oral argument and a motion for reconsideration, the Court ordered Mr. Inga to return to the Commission for an interpretation of § 2.1.8 or his case would be dismissed. Since re-instituting proceedings before the Commission, Mr. Inga and his allies have submitted dozens of pleadings and emails raising a litany of arguments and claims, many of them entirely outside the scope of the referral. AT&T, in turn, has incurred considerable time and expense responding to this blizzard of repetitive, vexatious and often frivolous submissions. Now, after six months of litigation before the Commission, Mr. Inga asks for a suspension of the proceedings before the Commission has answered the referred question, so that he can start re-litigating all of these same issues before the Court.

This request displays an extraordinary disrespect for the processes and resources of the Commission and the Court, both of which have been burdened (like AT&T) with unnecessary requests and filings. Perhaps the clearest example of the wastefulness and needless duplication Mr. Inga has inflicted on the Commission, the Court and AT&T is his oft-repeated argument that the Commission already decided, in its October 2003 decision, which obligations PSE had to assume in order to satisfy the tariff. The D.C. Circuit, of course, clearly held that the Commission had ***not*** addressed this very question. *Id.* at 939. Undaunted, Mr. Inga subsequently argued in the District Court that the Commission had already decided which obligations had to transfer when traffic is transferred. Judge Bassler properly rejected this claim. Mr. Inga then raised the argument again in his submissions to the Commission, and AT&T refuted it again. Now Mr. Inga claims, in recent submissions and in his email to you, "that Judge Bassler made a critical error in not recognizing that the FCC's 2003 Decision extensively elaborated on the allocation of obligations **under 2.1.8 not the fraudulent use section**," and that he will ask Judge Wigenton to lift the stay in light of the fact "that the FCC has already clearly interpreted the obligations allocation using 2.1.8." *See* email of Mr. Inga below.

It would be absurdly inefficient to "suspend" these referral proceedings so Mr. Inga can try to re-litigate an argument he has already lost *two times* before the District Court—once when Judge Bassler refused to lift the stay, and a second time when Mr. Inga argued the point again in his motion for reconsideration, which Judge Bassler denied. But beyond its wastefulness, Mr. Inga's request is utterly illogical. Why should the Commission suspend these proceedings in order to allow the District Court to decide what ***the Commission itself meant in its prior decision***? If Mr. Inga believes the Commission has already ruled in his favor, there is no conceivable reason for him to run from the Commission now and ask the District Court to decide that question.

While Mr. Inga is fond of accusing AT&T of "scamming" and "conning" the Commission in order to delay its supposed day of reckoning, his request is pure gamesmanship that would inflict unnecessary costs and burdens on AT&T and the District Court. The Commission should not suspend the referral proceedings. Instead, it should decide the question the District Court has referred and reject Mr. Inga's erroneous claims concerning the meaning of § 2.1.8 of AT&T's tariff.

Respectfully submitted,

Joseph R. Guerra

Exhibit 21

From: EzyStudentFunds [ezystudentfunds@optonline.net]

Sent: Tuesday, May 01, 2007 6:08 PM

To: Guerra, Joseph R.; Deena Shetler; Frank Arleo; Brown, Richard; lgsjr@usa.net; chh@commlawgroup.com; phillo@giantpackage.com; Joe Kearney

Subject: RE: Deena Please answer this procedural question.

Dear Ms Shetler

The bottom line is that AT&T can not refute that the FCC 2003 Decision clearly and extensively interpreted the allocation of obligations under the **heading of 2.1.8.--** not under Judge Bassler's Fraudulent Use heading. Therefore the fact that Judge Bassler was twice wrong in not lifting the Stay carries no weight. Everyone can see he made a critical error. Judge Bassler told the parties during oral argument that his determination depended upon what the FCC 2003 decision stated in regard to the obligations allocation language in 2.1.8. It is obvious Judge Bassler made a critical error.

The FCC has already ruled on the obligations issue under 2.1.8. as did Judge Politan.

Additionally the fact is AT&T's cover-ups for its counsel: "the proposal nonsense" the fictitious: "de minimus transfer section" have all been soundly defeated by petitioners.

No AT&T excuse has occurred for Mr. Carpenters concessions to the Third Circuit either. The FCC can not continue to allow AT&T to simply refute without providing evidence.

AT&T never addressed why the deposit requirements went on the transferor on a traffic only transfer -- not the transferee. AT&T never addressed the June 2002 TSA that says may transfer not MUST transfer. AT&T thinks we are all idiots.

Of course AT&T's newest proposal defense would mandate that all other supposedly did the correct thing and transferred plan obligations on a traffic only transfer. But AT&T can not show evidence of this because none exists.

Mr. Brown was confronted with CCI's evidence of traffic only transfers not transferring the transferors plan obligations and stated to the Third Circuit that this was self evident under the tariff. This is a clear concession.

Even if AT&T was able to con the DC Circuit that S&T transfer on a traffic only transfer AT&T would lose anyway on discrimination as AT&T's Joyce Suek stated AT&T was not allowing petitioner's to participate in any traffic only transfers at all. AT&T counsel advised her to inform petitioners that 2.1.8 would only be used for entire plan transfers.

The FCC is here to resolve issues in which the Courts lack the expertise to adjudicate however with the additional evidence and concession from AT&T there no longer seems to be needed such expertise. Any Judge can see that for AT&T's garbage defense to work it would have lots of evidence.

So please AT&T spare us all the rhetoric and quotes where Judge Bassler obviously got it wrong.

The fact is the FCC used 3.3.1.Q bullet 4 to determine how accounts could move and used section 2.1.8 as it agreed with the Politan decision to interpret and determine which obligations transferred.

The reason why petitioners wish to expose this to Judge Wigenton is that she may see that she no longer needs FCC guidance and the District Court will act much more expeditiously than the FCC.

Deena the traffic transfer issue based upon the concessions and new evidence must be stayed at while we go back to Judge Wigenton.

However the duration of the pre June 17th 1994 grandfathered shortfall and termination immunity period is still an interpretive issue and the FCC should continue deciding that issue.

We will ask Judge Wigenton for summary judgment on the shortfall application illegal remedy as the FCC's position on illegal remedies from the 2003 decision gives Judge Wigenton a clear precedent that AT&T can not rely upon the remedy (shortfall and termination infliction) due to the fact that AT&T illegally applied the remedy.

I also want to address AT&T's quote:

See AT&T Corp. v. FCC, 394 F.3d 933, 937 (D.C. Cir. 2005) ("AT&T did not concede the inapplicability of Section 2.1.8 to transfers of traffic only. Indeed, had AT&T been willing to make such a concession, it presumably would not have contested the meaning of this provision before the Commission. Accordingly, the FCC's reliance on AT&T's comment is plainly misplaced.").

AT&T again mixes apples and oranges. What was being discussed above
was the **movement of the accounts under 2.1.8**. This was not talking about which obligations transfer. To see what AT&T's position was on obligations transferring in 1995 the FCC needs to only look at Tr 8179 which mandated that a plan must transfer when a substantial traffic only transfer was ordered. There was no option to transfer plan obligations on a traffic only transfer. Stop the BS Mr. Guerra! Stop twisting quotes. There is no way you are going to get any of your nonsense by me!

Mr. Guerra you are also insulting Ms. Shetler's intelligence. She is not an idiot. Only a complete moron at this point can not see through AT&T's nonsense.

The FCC needs issue an order to stay the FCC proceeding due to the discovery of substantial evidence during the FCC proceedings ---that has not been refuted by AT&T ----as well as multiple AT&T concessions in which AT&T can not cover itself and a reveiw by the new District Court of its previous (Bassler) decison which now has been discovered as being in clear error.

The Bassler decison would have the FCC believeing that there are two sets of obligations -- one for Fraudulent Use and one for obligation allocation.

AT&T also states: "The D.C. Circuit, of course, clearly held that the Commission had ***not*** addressed this very question"

It does not make a difference that the DC Circuit did not understand the obligations issue having passed on a decision. (although the oral argument shows Judge Tattle and Judge Ginsburg both understood plan obligations did not transfer) The DC Circuit passed on the question and under the law of the Case can not change the FCC's position because it is based on the same set of facts. The traffic transfer issue is over under the law.

AT&T offers no answer to where the FCC got the obligations allocation analysis that it gave in its 2003 decision. Section 3.3.1.Q bullet has no such transfer analysis.

Petitioners have respected the FCC process and the process has given petitioners the time and evidence it needs to go back and show the District Court what petitioners found since the District Court Decision.

AT&T knows Judge Wigenton is going to ask for evidence and laugh in Mr. Guerra's face when he tries and make up another excuse. She will also want to know what Mr. Brown meant by the tariff being self evident that plan obligations do not transfer.

AT&T what is you cover for this concession? Sorry too late 15 days is over 10 + years ago.

I guess AT&T's former employee Mr. Kearney who has twice commented that AT&T is making gross misrepresentations is wrong too?

Joe no one is believing you. The party is over. AT&T's nonsense has been totally destroyed.

Respectfully submitted.
Al Inga
Petitioners.